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IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No.115 of 2019

M/s. MEB Industries,
A Proprietary concern,
Through its Proprietor,
Shri Rajesaheb M. Shaikh, Major of age,
married, occupation business,
316, Dattanagar, M.I.D.C., Kupwad
(Bamnoli),
Sangli, Maharashtra – 416436.

Petitioner

Versus

Sanjivani Sakhar Karkhana Limited,
A Co-operative Society,
Through its Administrator/Managing
Director,
Dayanandnagar, Tisk, Goa – 403406.

Respondent

Mr. Rohan P. Desai, Advocate for the Petitioner
Mr. Somnath B. Karpe, Advocate for the Respondent.

CORAM: MANISH PITALE, J
DATED: 20th September, 2021

Oral Order ;

1. By this Writ Petition, the petitioner has challenged order dated 16/10/2018 passed by the Assistant Registrar of Co-

operative Societies, whereby, an application for amendment of the dispute moved on behalf of the petitioner stood rejected.

2. By the said application for amendment, the petitioner sought amendment to the effect that the dispute filed by it ought to be read as a dispute under section 89 of the Co-operative Societies Act 2001 and not section 83 of the said Act, as inadvertently stated in the application raising the dispute before the said authority.

3. A perusal of the impugned order, which forms part of the roznama, would show that the application stood rejected for the reason that the advocate representing the petitioner could not argue the matter despite repeated opportunities given. There is nothing to show that the aforesaid authority considered the application on merits.

4. Upon notice being issued, the respondent is represented through counsel. It is claimed that the dispute raised by the petitioner either under section 83 of the said Act or otherwise is not maintainable and that a preliminary objection to that effect is already raised and it is pending before the aforesaid authority.

5. Having heard Mr. Rohan Desai, the learned counsel appearing for the petitioner and Mr. S. Karpe, the learned counsel appearing for the respondent, this Court is of the opinion that the present Writ petition can be allowed, for the reason that the amendment sought on behalf of the petitioner appears to be justified in the facts and circumstances of the present case and in any case, it is found to be an innocuous prayer made on behalf of the petitioner on the basis that a typographical error that crept in while moving the dispute before the aforesaid authority. In so far as the question of the very maintainability of the dispute is concerned, this Court is not expressing any opinion and it is for the concerned authority to decide the said issue as a preliminary issue.

6. In view of the above, the Writ petition is allowed. The impugned order dated 16/10/2021 passed by the Assistant Registrar of Cooperative Societies is set aside and the application for amendment filed on behalf of the petitioner is allowed, in terms of the prayer made therein.

7. It is made clear that this Court has not expressed any opinion on the preliminary issue already raised on behalf of the respondent before the said authority. Consequently, the said authority i.e. Registrar/Assistant Registrar of Co-operative

Societies is directed to take up the preliminary objection raised on behalf of the respondent at the earliest, as a preliminary issue and to dispose the same at the earliest, within a period of six weeks from today.

8. The parties to appear before the concerned authority on 29/9/2021.

MANISH PITALE, J.